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Attorneys for Plaintiff  
Tina Johnson

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

TINA JOHNSON,	)	Case No.: C-08-02558 RMW
	)	STIPULATION AND ORDER
Plaintiff,	)	FOR THE AWARD AND
	)	PAYMENT OF ATTORNEY
vs.	)	FEES AND EXPENSES PURSUANT
MICHAEL J. ASTRUE,	)	TO THE EQUAL ACCESS TO
Commissioner of Social Security,	)	JUSTICE ACT, 28 U.S.C. § 2412(d)
	)	
Defendant.	)	

TO THE HONORABLE RONALD M. WHYTE, MAGISTRATE JUDGE  
OF THE DISTRICT COURT:

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Tina Johnson be awarded attorney fees and expenses in the amount of TWO THOUSAND FIVE HUNDRED dollars (\$2,500.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

1 After the Court issues an order for EAJA fees to Tina Johnson, the  
2 government will consider the matter of Tina Johnson's assignment of EAJA fees to  
3 Marc V. Kalagian. Pursuant to *Astrue v. Ratliff*, \_\_\_ U.S. \_\_\_, 2010 WL 2346547  
4 (June 14, 2010), the ability to honor the assignment will depend on whether the  
5 fees are subject to any offset allowed under the United States Department of the  
6 Treasury's Offset Program. After the order for EAJA fees is entered, the  
7 government will determine whether they are subject to any offset.

8 Fees shall be made payable to Tina Johnson, but if the Department of the  
9 Treasury determines that Tina Johnson does not owe a federal debt, then the  
10 government shall cause the payment of fees, expenses and costs to be made  
11 directly to Law Offices of Rohlfing & Kalagian, LLP, pursuant to the assignment  
12 executed by Tina Johnson. Any payments made shall be delivered to Marc V.  
13 Kalagian.

14 This stipulation constitutes a compromise settlement of Tina Johnson's  
15 request for EAJA attorney fees, and does not constitute an admission of liability on  
16 the part of Defendant under the EAJA. Payment of the agreed amount shall  
17 constitute a complete release from, and bar to, any and all claims that Tina Johnson  
18 and/or Marc V. Kalagian including Law Offices of Rohlfing & Kalagian, LLP may  
19 have relating to EAJA attorney fees in connection with this action.

20 Marc V. Kalagian reserves the right to contend that any non-payment caused  
21 by the collection of a federal debt owed by Tina Johnson violates 31 C.F.R. §  
22 285.5(e)(5) and *Morrison v. C.I.R.*, 565 F.3d 658, 667 (9th Cir. 2009). Nothing in  
23 this stipulation shall be construed as an admission by Marc V. Kalagian that the  
24 Government has the right or authority to offset the fees due and payable pursuant  
25 to this stipulation.  
26

1 This award is without prejudice to the rights of Marc V. Kalagian and/or  
2 Rohlfing & Kalagian, LLP to seek Social Security Act attorney fees under 42  
3 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.  
4 DATE: April 27, 2011 Respectfully submitted,

5 ROHLFING & KALAGIAN, LLP

6 /s/ *Marc V. Kalagian*

7 BY: \_\_\_\_\_  
8 Marc V. Kalagian  
9 Attorney for plaintiff Tina Johnson

10 DATED: April 27, 2011

11 BENJAMIN B. WAGNER  
12 United States Attorney

13 /s/ *Armand D. Roth*

14 \_\_\_\_\_  
15 Armand D. Roth  
16 Special Assistant United States Attorney  
17 Attorneys for Defendant Michael J. Astrue,  
18 Commissioner of Social Security  
19 (Per e-mail authorization)

20 PURSUANT TO STIPULATION, IT IS SO ORDERED that fees and expenses in  
21 the amount of \$2,500.00 as authorized by 28 U.S.C. § 2412).

22 Dated: 05/17/2011

23 *Ronald M. Whyte*  
24 THE HONORABLE RONALD M. WHYTE  
25 United States Magistrate Judge  
26